

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

United States of America)	
)	Cr. No. 6:09-578-HMH
vs.)	
)	
Sandra G. Robinson,)	OPINION & ORDER
)	
Movant.)	

This matter is before the court on Sandra G. Robinson’s (“Robinson”) motion to vacate, set aside, or correct her sentence pursuant to 28 U.S.C. § 2255. On August 19, 2009, Robinson pled guilty to one count of conspiracy to defraud the United States and two counts of identification fraud. Robinson was sentenced on December 14, 2009, to seventy-two months’ imprisonment.

Robinson appealed her conviction and her appeal is currently pending. The instant motion was filed on July 19, 2010.¹ Because her direct appeal is still pending, the court lacks jurisdiction to consider Robinson’s § 2255 motion. Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982) (finding that filing a notice of appeal “confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”), superseded on other grounds by, Fed. R. App. P. 4(a)(4). As such, Robinson’s collateral attack of her conviction and sentence under 28 U.S.C. § 2255 is premature. See Pratt v. United States, 129 F.3d 54, 60-61 (1st Cir. 1997). Therefore, after a thorough review of the

¹ Houston v. Lack, 487 U.S. 266 (1988).

facts and pertinent law, the court dismisses Robinson's § 2255 motion without prejudice.

Therefore, it is

ORDERED that Robinson's § 2255 motion is dismissed without prejudice.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
July 27, 2010

NOTICE OF RIGHT TO APPEAL

The Movant is hereby notified that she has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.